

**NEBRASKA TAX EQUALIZATION
AND REVIEW COMMISSION**

DAMON M. WIRTH,)	
)	
Appellant,)	CASE NO 07SV-062
)	
v.)	DECISION AND ORDER AFFIRMING
)	THE DECISION OF THE LANCASTER
LANCASTER COUNTY BOARD OF)	COUNTY BOARD OF EQUALIZATION
EQUALIZATION,)	
)	
Appellee.)	DEFAULT JUDGMENT
)	

The above-captioned case was called for a hearing on the merits of an appeal by Damon M. Wirth ("the Taxpayer") to the Tax Equalization and Review Commission ("the Commission"). The hearing was held in the Commission's Hearing Room on the sixth floor of the Nebraska State Office Building in the City of Lincoln, Lancaster County, Nebraska, on March 4, 2008, pursuant to a Notice and Order for Hearing issued December 18, 2007. Commissioners Wickersham, Warnes, and Salmon were present. Commissioner Hotz was excused from participation by the presiding hearing officer. The appeal was heard by a panel of three commissioners pursuant to 442 Neb. Admin. Code, ch. 4, §11 (10/07). Commissioner Warnes presided at the hearing.

The Taxpayer did not appear as directed by the Commission's order for hearing. No one appeared as legal counsel for the Taxpayer.

The Lancaster County Board of Equalization ("the County Board") appeared through legal counsel, Michael E. Thew, a Deputy County Attorney for Lancaster County, Nebraska.

The Commission took statutory notice and received exhibits as provided by the parties.

The County Board moved for a default judgment.

The Commission is required by Neb. Rev. Stat. §77-5018 (Cum. Supp. 2006) to state its final decision concerning an appeal, with findings of fact and conclusions of law, on the record or in writing. The final decision and order of the Commission in this case is as follows.

**I.
FINDINGS**

The Commission finds and determines that:

1. The Taxpayer is the owner of record of certain real property described as S13, T7, R7, 6TH PRINCIPAL MERIDIAN, LOT 11 NE , in Lancaster County, Nebraska ("the subject property").
2. Prior to March 19, 2007, the County Assessor made a determination that the subject property should be disqualified for use of special valuation.
3. The Taxpayer protested that determination.
4. The County Board affirmed the determination of the County Assessor.
5. An appeal of the County Board's decision was filed with the Commission.
6. The County Board was served with a Notice in Lieu of Summons and duly answered that Notice.
7. An Order for Hearing and Notice of Hearing issued on December 18, 2007, set a hearing of the Taxpayer's appeal for March 4, 2008, at 3:00 p.m. CST.
8. An Affidavit of Service which appears in the records of the Commission establishes that a copy of the Order for Hearing and Notice of Hearing was served on all parties. (Case File).

9. Each of the parties has been afforded an opportunity to present evidence and argument as provided by Neb. Rev. Stat. §77-5015 (Cum. Supp. 2006).
10. The Taxpayer failed to file any exhibits with the Commission excepting the County's final determination which was filed with the Appeal Form.
11. The Taxpayer failed to appear at the hearing.
12. The Order for Hearing and Notice of Hearing issued by the Commission states in Paragraph 2 that if the Taxpayer fails to appear at the hearing, the Commission may enter an order dismissing the Appeal.
13. The County Board moved for an order of default judgment.
14. The County Board's motion for an Order of Default Judgment should be granted.

**II.
CONCLUSIONS OF LAW**

1. The Commission has subject matter jurisdiction in this appeal.
2. Subject matter jurisdiction of the Commission in this appeal is over all questions necessary to determine taxable value. Neb. Rev. Stat. §77-5016 (7) (Supp. 2007).
3. The Commission is authorized to enter default judgments by Neb. Rev. Stat. §77-5015 (Cum. Supp. 2006).

**III.
ORDER**

IT IS ORDERED THAT:

1. The motion of the County Board for a Default Judgment is granted.
2. The decision of the County Board determining that the subject property was not eligible for special valuation is affirmed.

3. The subject property was not eligible for special valuation as of the assessment date, January 1, 2007.
4. This decision, if no appeal is timely filed, shall be certified to the Lancaster County Treasurer, and the Lancaster County Assessor, pursuant to Neb. Rev. Stat. §77-5018 (Cum. Supp. 2006).
5. Any request for relief, by any party, which is not specifically provided for by this order is denied.
6. Each party is to bear its own costs in this proceeding.
7. This decision shall only be applicable to tax year 2007.
8. This order is effective for purposes of appeal March 5, 2008.

Signed and Sealed. March 5, 2008.

Wm. R. Wickersham, Commissioner

Nancy J. Salmon, Commissioner

William C. Warnes, Commissioner

SEAL

APPEALS FROM DECISIONS OF THE COMMISSION MUST SATISFY THE REQUIREMENTS OF NEB. REV. STAT. §77-5019 (CUM. SUPP. 2006), OTHER PROVISIONS OF NEBRASKA STATUTES, AND COURT RULES.